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C O N F I D E N T I A L NAIROBI 002759

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TAGS: [KDEM](#) [PREL](#) [KCOR](#) [PTER](#) [KE](#) [SO](#)  
SUBJECT: KENYAN OPPOSITION TO ASSISTANT SECRETARY FRAZER:  
DEMOCRACY "BACKSLIDING"

REF: NAIROBI 2616

Classified By: Political Counselor Larry Andre for reasons 1.4 (b,d)

11. (C) SUMMARY: The Kibaki Government is unresponsive and acting with impunity, opposition leaders told Assistant Secretary Jendayi Frazer during a June 21 meeting in Nairobi.

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The only solution is for Kenyans to vote in a new government, which is why politicians are fixed on the 2007 general election, more than a year away. The members of Parliament shared their perspective on the state of Kenyan politics, decrying the "backsliding" of democracy and governance in the country. They also offered their views on ways the U.S. could better assist Kenyan institutions to improve government accountability. Assistant Secretary Frazer emphasized the importance to the U.S. of supporting and assisting Kenya to end corruption, eliminate the terrorist threat to the region, and advance its democratic development. END SUMMARY.

IMPUNITY RULES  
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12. (C) On June 21, Assistant Secretary Jendayi Frazer met with Kenyan opposition leaders Uhuru Kenyatta (KANU), Leader of the Official Opposition and MP for Gatundu South; General Joseph Nkaissery (KANU) MP for Kajiado Central; and Ochiillo Ayacko (Liberal Democratic Party, LDP) MP for Rongo constituency. The overriding theme of the discussion was the extent to which the current Kenyan government (or more specifically an "inner core of a few individuals accountable to no one," according to Kenyatta) is acting on its own whims, entirely unresponsive to the demands of Kenyan citizens. The recent "Armenian incident" (reftel) is a glaring example of this. Because the government has no clear direction and moves from one crisis to the next, the public and opposition are focused intently on the late 2007 general elections. They want the government out. Encouraging them to engage their constituents on substantive issues, Assistant Secretary Frazer urged the MPs to not simply run out the

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clock waiting for the next election.

CONSTITUTIONAL REFORM: AN UNFULFILLED PROMISE  
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13. (C) Initially to have been delivered within 100 days of

taking office in 2002, seven months after the defeat of the largely government-supported draft constitution in the November 2005 referendum, Kenya has no indication from Kibaki how constitutional reform will proceed, Kenyatta remarked. Indeed, there is no provision in the proposed budget for continuing the review process, he added. Improved governance is on hold without a new constitution, Ayacko explained. For example, under the current document, the ability of Parliamentarians to introduce legislation is severely limited; the government determines Parliament's agenda and schedule, which reinforces the dominance of the executive and its supporters. This relegates Parliament to a merely reactionary role, Kenyatta commented. Statehouse has no interest in pursuing constitutional reform, or in stemming grand scale corruption which has plagued the country, he observed.

#### POACHING MPS

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¶4. (C) Another step back for Kenyan democracy which the KANU MPs highlighted was the damage done by the government's repeated "poaching" of their members by appointing them to government positions, and the resultant weakening of political parties. This has "killed democracy," Nkaiserry commented. Kenyatta lamented that when the NARC coalition began to disintegrate, the government "illegally raided the opposition." Ayacko, a former Kibaki cabinet minister whose LDP was part of 2002's victorious NARC, observed that because the parties in Kenya have been so weakened, in 2007 it will be necessary to again consider coalitions, although politicians fear dominance from other parties and a loss of ideology.

#### BEYOND NAIROBI POLITICS

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¶5. (C) Nkaiserry, who during his military career had served as former President Moi's Military Intelligence Advisor on Somalia and Sudan, recounted the important role Kenya had played in regional stability and in the African Union. Ayacko added that the U.S. should bear in mind that policy in East Africa must include Kenya. Assistant Secretary Frazer agreed that the Kenyan record was indeed strong, but added that recently, although Nairobi's policy on regional issues remained in alignment with that of the U.S., Kenyan leadership had flagged. Assistant Secretary Frazer urged the MPs to step back from personality politics and focus electoral debate on the serious issues affecting Kenya, such as weapons proliferation and international terrorism.

¶6. (C) Nkaiserry was concerned, however, that although Kenya shares the U.S. interest in fighting global terrorism, he felt the U.S. was not offering the country enough support. Assistant Secretary Frazer noted that along with seeing an end to crippling levels of corruption and supporting multi-party democracy, a U.S. priority for Kenya and the region is eliminating the terrorist threat. That includes training, coastal security, and anti-piracy programs, some of which are affected by Article 98. The U.S. would also like to see anti-terror legislation, she added, but reiterated that it had to be a Kenyan law developed by consensus that does not single out one group of citizens for unjust and unequal treatment (referring to the explicit anti-Muslim language in one of the draft anti-terrorism bills). Kenyatta agreed with the need for inclusive dialogue on this important issue, but as long as the government insisted on writing bills without consultation, there would be resistance.

#### WHAT THE U.S. CAN DO: HELP STOP THE BACKSLIDING

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¶7. (C) Amid the euphoria following the 2002 election of the Kibaki "reform" government, the donor community stood by and watched as a "culture of impunity" developed among high level officials, Kenyatta argued. More pressure and friendly urging, however, could go a long way, he added, noting that

the U.S. and other donors had given the government "too much leeway." Ayacko and Kenyatta argued for the use of development assistance as a tool for encouraging government responsiveness. Kenyatta suggested that donor-funded programs, the implementation of which the government relied on for survival, could be an effective pressure point. Ayacko, however, contended that much needed assistance should not be shut off, rather examined more carefully. Contracts for donor-funded infrastructure projects, road building, for example, are often awarded at exorbitant prices, with the excess going into corrupt pockets. Because of the government malfeasance and impunity, U.S. support for democracy and good governance is more important than ever, he concluded.

18. (U) Assistant Secretary Frazer has cleared this message.  
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